

IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ELOUISE PEPION COBELL, et al.,	)	
Appellees,	)	No. 03-5262
	)	
v.	)	
	)	
GALE A. NORTON, as Secretary of	)	
the Interior, et al,	)	
Appellants	)	
	)	
	)	
	)	

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**APPELLANTS' REPLY TO OPPOSITION TO  
MOTION TO HOLD APPEAL IN ABEYANCE**

The government moved to hold this appeal in abeyance pending the Solicitor General's determination whether to take an appeal from the September 25, 2003 structural injunction issued by the district court in this case. As we indicated in our motion, if the Solicitor General determined to appeal from the structural injunction, the government would move to consolidate the two appeals.

Subsequently, following the Solicitor General's authorization, we filed an appeal from the structural injunction. That appeal is docketed as No. 03-5314. By separate motion, we are asking that the two appeals be consolidated for briefing and argument.

Inasmuch as the grounds for the government's motion to hold in abeyance were made clear in the motion, plaintiffs' opposition was groundless when filed. It has now been overtaken by events, in light of our consolidation motion. And the opposition's

various merits-related assertions are not germane to any question of abeyance and consolidation.

Respectfully submitted,

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NOVEMBER 2003

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of November, 2003, I caused copies of the foregoing motion to be sent to the Court and to the following by hand delivery:

The Honorable Royce C. Lamberth  
United States District Court  
United States Courthouse  
Third and Constitution Ave., N.W.  
Washington, D.C. 20001

Keith M. Harper  
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and to the following by federal express, overnight mail:

Elliott H. Levitas  
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and to the following by regular, first class mail:

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